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RESTRICTIVE COVENANT AMENDMENT REVIEW SHEET

CASE: C14R-85-178 (RCA)
Lakeline Boulevard Multi Family

Z.A.P. DATE: April 3, 2012
April 17, 2012

ADDRESS: 2801 and 2829 South Lakeline Boulevard

OWNER/APPLICANT: NAP Lakeline, LP (Mark Morris)

AGENT: Bury + Partners, Inc. (Steven J. Bertke, P.E.)

EXISTING ZONING: CH

AREA: 46.7 acres

NATURE OF REQUEST:

To amend a public restrictive covenant for the property located at 2801 and 2829 S. Lakeline Boulevard to remove the requirement for the construction of a "Recharge Pond" and replace it with equivalent water quality controls (Please see Applicant's Request Letter – Attachment A).

SUMMARY STAFF RECOMMENDATION:

The staff's recommendation is for approval of an amendment to existing Restrictive Covenant (C14 R-85-178) Vol. 1852, page 822 to:

1. To allow an alternative method of compliance with the original restrictive covenant requirement to construct and maintain a recharge or detention area ("Recharge Pond") with a surface area a minimum of 1.5 acres.
2. To allow inclusion of a description of "Undisturbed Direct Infiltration Areas and Vegetated Filter Strip with Downstream Infiltration Areas."
3. To allow inclusion of a "Landscape Maintenance Plan."

(Please see Draft Amendment to the Restrictive Covenant – Attachment C).

ZONING AND PLATTING COMMISSION RECOMMENDATION:

4/03/12: Postponed to April 17, 2012 at the staff's request (6-0, P. Seeger-absent); G. Rojas-1st, G. Bourgeios-2nd.

ISSUES:

The restrictive covenant amendment request was heard by the Environmental Board on April 4, 2012. The Environmental Board voted to approve the staff's recommendation by consent on a motion of (4-0, B. Anderson, M. Neely and J. Walker-absent).

DEPARTMENT COMMENTS:

The property in question is an undeveloped tract of land located between Lakeline Boulevard, Pecan Park Boulevard and Ridgeline Boulevard. The applicant is requesting to amend an existing public restrictive covenant (Please see Existing Restrictive Covenant - Attachment B) on the property to remove the requirement for the construction of a "Recharge Pond" and replace it with equivalent water quality controls.

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The staff is recommending the applicant's request because a recharge pond is undesirable due to the potential of groundwater pollution (Please see Staff Recommendation Memorandum – Attachment D). The alternative method of compliance will create less disturbance of native ground and it is possible that the existing ground and vegetation may a as a vegetated filter strip for the site. The capture, treatment and infiltration of roof runoff will allow for greater site recharge than what would occur if roof runoff is directed to standard water quality controls. Finally, the addition of a Landscape Maintenance Plan will provide ongoing vegetation control to ensure that the vegetated filter strips are operating in compliance with the Environmental Criteria Manual.

The applicant agrees with the staff's recommendation.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
Site	CH	Undeveloped
North	MF-3, GR-MU-CO	Apartments, Undeveloped Tract
South	GR	Retail Shopping Center (Lakeline Mall)
East	GR, GR-CO	Undeveloped Tracts
West	GR, CH, P	Undeveloped Tracts

AREA STUDY: N/A

TIA: N/A

WATERSHED: Buttercup Creek (Suburban Watershed)**DESIRED DEVELOPMENT ZONE:** Yes

CAPITOL VIEW CORRIDOR: N/A

HILL COUNTRY ROADWAY: N/A

NEIGHBORHOOD ORGANIZATIONS:

Austin Heritage Tree Foundation
Austin Monorail Project
Home Builders Association of Greater Austin
Homeless Neighborhood Organization
League of Bicycling Voters
SELTEXAS
Sierra Club, Austin Regional Group

CASE HISTORIES:

NUMBER	REQUEST	COMMISSION	CITY COUNCIL
C14-2008-0091 (2W Homestead Zoning: 14000 Block of U.S. Highway 183 North)	GR-CO, CS to CH	5/20/08: Approved staff's recommendation for CH district zoning by consent (7-0, J. Martinez-absent); K. Jackson-1st, T. Rabago-2nd.	7/24/08: Approved CH district zoning by consent (5-0, Cole and Shade-off the dais)

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C14-2007-0218 (620-183 Limited Partnership: 10700-10704 Lakeline Mall Drive)	GR-MU to MF-4	11/20/07: Approved MF-4-CO zoning, limit the property to MF-3 density regulations/36 units per acre (7-0, S. Hale-absent, T. Rabago-left early); J. Martinez-1st, K. Jackson-2nd.	12/13/07: Approved MF-4 district zoning (6-0, McCracken-off dias); 1st reading 1/31/08: Approved MF-4 by consent on2nd reading, with additional condition for staff to incorporate green building restrictions offered by applicant into appropriate documents before 3rd reading (7-0); 2nd reading 2/28/08: Approved MF-4 district zoning with conditions by consent (7-0); 3rd reading
C14-2007-0125 (Lakeline Riveria Zoning: 2920 ½ South Lakeline Boulevard)	MF-3 to GR-MU	11/20/07: Approved staff's recommendation of GR-MU-CO zoning, with CO to limit the development intensity for the entire site to less than 2,000 vehicle trips per day by consent (7-0, S. Hale-absent)	11/13/07: Approved GR-MU-CO zoning by consent (6-0, McCracken-off dais); all 3 readings
C14-2007-0046 (Wolf Hester Tract: 14000 U.S. Highway 183 North)	DR to GR	6/05/07: Approved GR-CO with condition to prohibit Pawn Shops by consent (7-0, S. Hale, J. Martinez-absent); J. Pinnelli-1st, J. Shieh-2nd.	6/26/08: Approved GR-CO by consent on all 3 readings (6-0); J. Kim-1st, B. Dunkerely-2nd.
C14-03-0046 (Northfork Plaza: 13945 U.S. Highway 183 North)	DR to GR	3/25/03: Approved staff's recommendation of GR zoning by consent (7-0, K. Jackson-not yet arrived, J. Martinez-absent)	4/24/03: Granted GR on all 3 readings (6-0-1, Garcia-absent)
C14-01-0173	DR to GR	1/15/02: Approved GR-CO, w/ condition prohibiting Pawn Shops (8-0)	2/14/02: Approved GR-CO (7-0); all 3 readings
C14-00-2094	DR to GR	7/11/00: Approved staff rec. of GR-CO by consent (7-0)	8/17/00: Approved GR w/ conditions on 1st reading (6-0, Goodman-absent) 8/31/00: Approved 2nd/3rd readings (6-0, KW-absent)
C14-00-2148	GO to GR	8/15/00: Approved staff rec. of GR by consent (7-2, RC/JM-Nay)	9/28/00: Approved GR (7-0); all 3 readings
C14-99-2110	DR, SF-2 to CS	3/28/00: Approved staff rec. of GR by consent (5-0)	5/18/00: Approved PC rec. of GR (6-0); all 3 readings
C14-98-0266	DR to GR	3/2/99: Approved GR by consent (8-0)	12/2/99: Approved PC rec. of GR w/ conditions (6-0, WL-absent); 1st reading 5/24/01: Approved GR (6-0); 2nd/3rd readings

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C14-98-0253	MF-3 to GR	4/13/99: Approved staff rec. of GR (7-0). Also approved MGA for 10 years.	5/13/99: Approved PC rec. of GR (7-0); 1st reading 6/3/99: Approved GR (7-0); and/3rd readings
C14-97-0041	GR to CS	6/3/97: Approved CS (5-0-1)	6/26/97: Approved CS (7-0); all 3 readings
C14-96-0162	I-RR to GR	2/18/97: Approved staff rec. of GR (9-0)	3/6/97: Approved PC rec. of GR (7-0); all 3 readings
C14-96-0147	SF-2, DR to CS	1/21/97: Approved CS (9-0)	2/6/97: Approved CS (6-0); all 3 readings
C14-95-0196	DR to CS	1/23/96: Approved CS (5-0)	2/29/96: Approved CS (7-0); all 3 readings
C14-95-0044	DR to GR	10/17/95: Approved CS as amended w/ ROW (5-0)	11/30/95: Approved CS as amended subject to ROW (6-0); 1st reading 12/7/95: Approved CS (7-0); 2nd/ 3rd reading

RELATED CASES: C8-2011-0118.0A (Subdivision)
SP-2011-0255C (Site Plan)

ABUTTING STREETS:

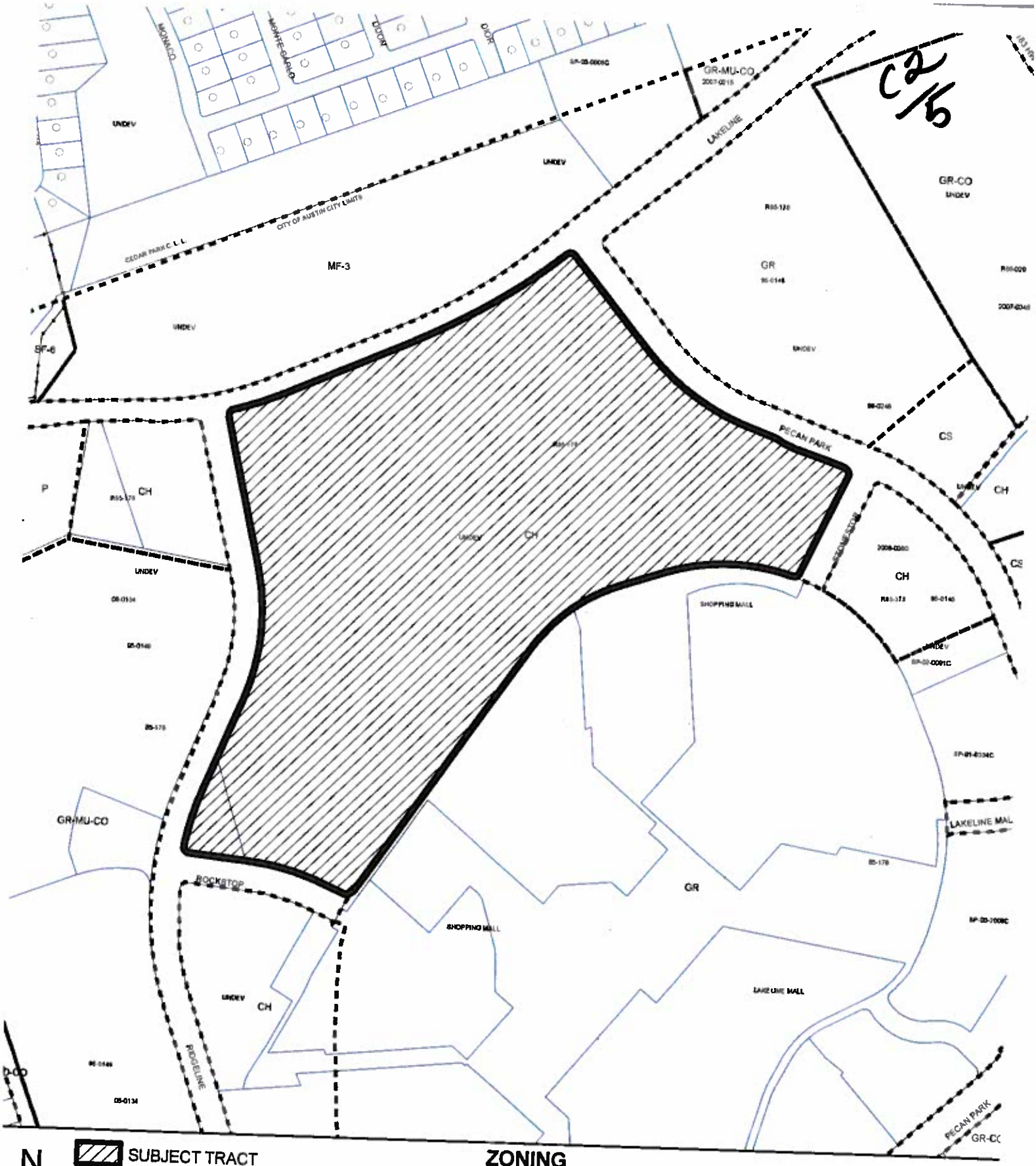
Name	ROW	Pavement	Classification	Capital Metro	Bicycle Plan	Sidewalks
Lakeline Blvd	115'	104'	Arterial	No	No	Yes
Pecan Park Blvd	90'	70'	Collector	Yes	No	No

CITY COUNCIL DATE: April 26, 2012 **ACTION:**

ORDINANCE READINGS: 1st 2nd 3rd

ORDINANCE NUMBER:

CASE MANAGER: Sherri Sirwaitis **PHONE:** 974-3057, sherri.sirwaitis@ci.austin.tx.us



N

SUBJECT TRACT

PENDING CASE

ZONING BOUNDARY

' = 400'

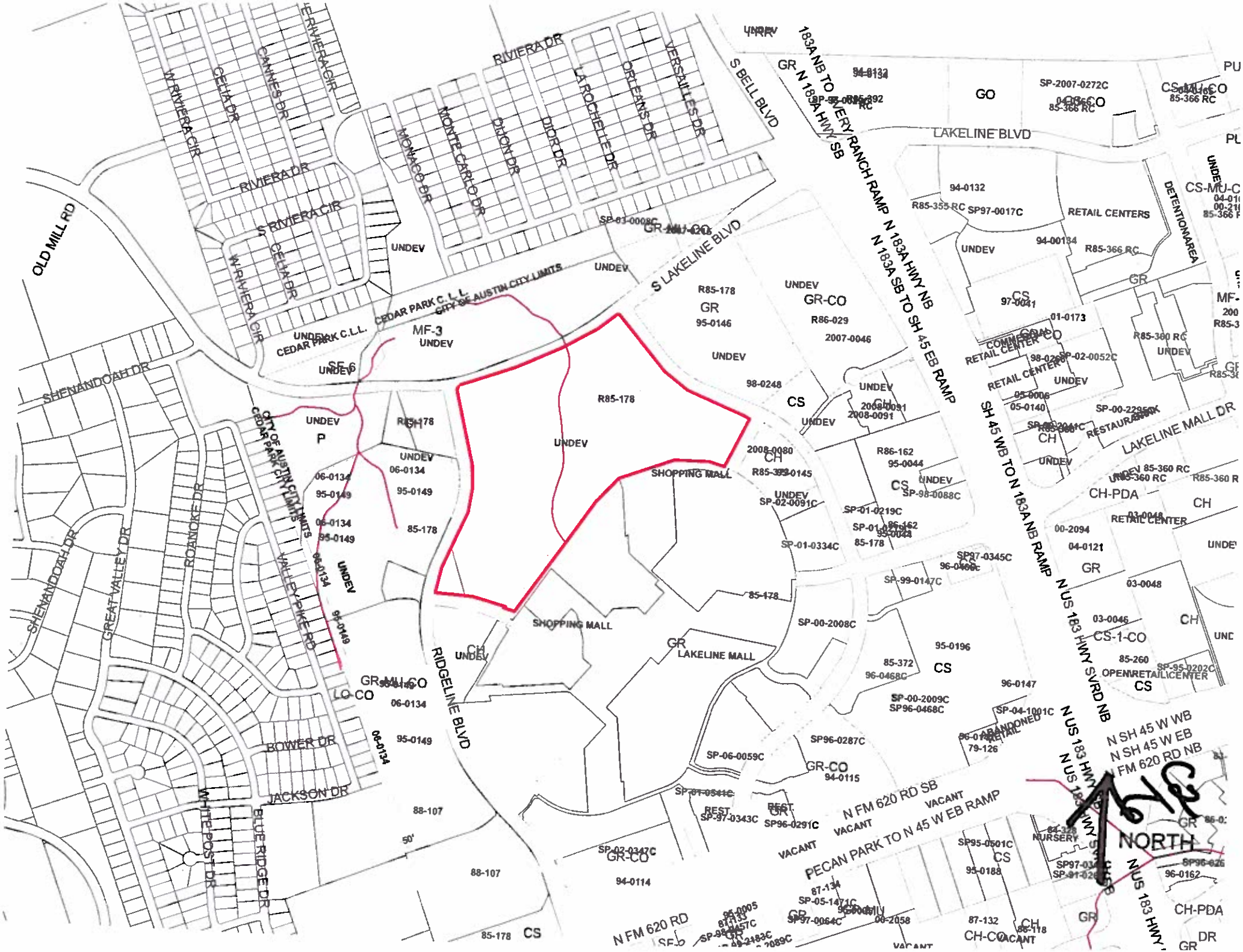
ZONING

ZONING CASE#: C14R-85-178(RCA)

This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

This product has been produced by CTM for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.

CITY OF AUSTIN
FOUNDED 1839


RIVIERA DR
RIVIERA CIR
W RIVIERA CIR
CELIA DR
CANNES DR
MONACO DR
MONTE CARLO DR
DIJON DR
DIOR DR
LA ROCHELLE DR
ORLEANS DR
VERSAILLES DR
S BELL BLVD
183A NB TO SVERY RANCH RAMP
N 183A HWY SB
N 183A HWY NB
N 183A SB TO SH 45 EB RAMP
LAKELINE BLVD
S LAKELINE BLVD
OLD MILL RD
SHENANDOAH DR
CEDAR PARK C.L.L.
CITY OF AUSTIN CITY LIMITS
MF-3
SF-6
UNDEV
R85-178
GR
GR-CO
CS
CH
P
SHOPPING MALL
LAKELINE MALL
RETAIL CENTERS
DETENTIONAREA
LAKELINE MALL DR
CH-PDA
SH 45 WB TO N 183A NB RAMP
N US 183 HWY SVRD NB
N US 183 HWY
N SH 45 W WB
N SH 45 W EB
N FM 620 RD NB
N FM 620 RD SB
PECAN PARK TO N 45 W EB RAMP
N FM 620 RD
GREAT VALLEY DR
ROANOKE DR
VALLEY PIKE RD
RIDGELINE BLVD
BOWER DR
JACKSON DR
WHITE POST DR
BLUE RIDGE DR
NORTH

SH 45 WB TO N 183A NB RAMP
N US 183 HWY NB
N 183A SB TO SH 45 EB RAMP
N 183A HWY SB
LAKELINE BLVD
RETAIL CENTERS
CS

Attachment A

02/8

Bury+Partners

March 9, 2012

Mr. Greg Guernsey, Director
City of Austin Planning and Development Review Department
505 Barton Springs Road
Austin, Texas 78701

Members of the City of Zoning and Platting Commission

Members of the Austin City Council

Re: Amendment to Restrictive Covenant Vol. 1852, page 822
Lakeline Boulevard Multi-Family - SP-2011-0255C, C8-2011-0118.0A
2801 and 2829 S. Lakeline Boulevard
Austin, Williamson County, Texas

Dear Sirs and Madams:

Please accept this letter and the attached narrative on behalf of our client NAP Lakeline, with Bury+Partners acting as said agent, as a formal request to amend the Restrictive Covent governing 2801 and 2829 S Lakeline Blvd. *(Reference Exhibits "A, B, and C" for the original Restrictive Covenant, Modification of the Restrictive Covenant document, and Appendix U of the Environmental Criteria Manual).* The property owner wishes to modify the restrictive covenant which includes a paragraph that requires a 1.5 acre "Recharge Pond" be constructed and maintained on the property. Through multiple coordination meetings with City of Austin Staff, and due to the lack of specific design criteria for a "Recharge Pond," it was agreed the Restrictive Covenant should be amended to remove the requirement of the construction of a recharge pond and replace it with the reservation of a minimum of 1.5 acres of undisturbed natural land areas to be defined as Undisturbed Direct Infiltration Areas and 3.1 acres of combined Vegetated Filter Strip with Downstream Infiltration Areas. The intent of the following narrative is to provide background information and summarize coordination with City of Austin staff in regards to amending the Restrictive Covenant.

The proposed Lakeline Boulevard multifamily development will be developed on a ±46.7-acre site located in the Full Purpose Jurisdiction of the City of Austin in Williamson County, Texas. The site is located along the 2800 block of S Lakeline Boulevard, bound on the east by both Pecan Park Boulevard and Stonestop Boulevard; to the west by both Ridgeline Boulevard and Rockstop Boulevard. The southern boundary is the Lakeline Mall parking lot access road

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TBPE No. F-1048

Reference the Vicinity Map in Exhibit "D". The site's final plat proposes to subdivide the existing ±46.7 acres into two (2) lots and a single block. The site plan for the two (2) lots proposes to develop both lots as a multifamily complex. The multifamily complex will consist of 30 buildings with supporting infrastructure.

The site is within the Full Purpose Jurisdiction of the City of Austin and is currently zoned "CH" Commercial Highway, per the existing Zoning Ordinances 86-0306-B and 86-0508-H. The zoning case was reviewed under City of Austin case number C14R-85-178. Development of the site is consistent with all zoning rules, regulations and ordinances.

The entire development lies within the Edwards Aquifer Recharge Zone. Therefore, water quality is required in accordance with the current Edwards Aquifer rules as prepared by the Texas Commission on Environmental Quality (TCEQ), as well as the City of Austin regulations. All water quality ponds as well as erosion and sedimentation controls are in accordance with the TCEQ Edwards Aquifer Program rules and regulations. A Water Pollution Abatement Plan (WPAP) and organized Sewage Collection System Plan (SCS) have been submitted and approved for the site.

The site lies within the Buttercup Creek Watershed, which is classified as a Suburban Watershed. The acreage draining across the site does not exceed 320 acres; therefore, there are no Critical Water Quality Zones or Water Quality Transition Zones per City of Austin Land Development Code Section 25-8-91.

Planning for this site began in late 2010. Bury+Partners attended several preliminary meetings with the City of Austin in late 2010 and early 2011. During these meetings it was expressed by city staff that the use of a recharge pond is undesirable under the current City of Austin Land Development Code, Environmental Criteria Manual (ECM), and the TCEQ code, and there are no specific design criteria for recharge ponds currently available per the Environmental Criteria Manual. Multiple options were discussed as alternatives for mitigation and City of Austin Staff and Bury+Partners agreed to reserve undisturbed areas. Bury+Partners was asked to follow-up the meeting with exhibits showing different configurations of undisturbed areas. City Staff in attendance at the preliminary meetings included:

- Sylvia Pope
- Michael Duval
- Lonnie Robinson
- Mike McDougal
- Forrest Nikorak

Bury+Partners representatives included:

- Joseph Isaja, PE
- Kelly Bell, PE
- Steven Bertke, PE

Throughout the summer of 2011 Bury+Partners coordinated extensively with City of Austin staff, frequently with Sylvia Pope. The Site Plan (SP-2011-0255C) and Plat (C8-2011-0118.0A) were

commented on both the Site Plan and Plat in regards to the Restrictive Covenant. Ms. Pope's comments included a request to coordinate with her, Mike McDougal, and Jim Williams regarding the modification of the Restrictive Covenant. Additionally, she asked for an engineering report supporting the request to provide infiltration through the proposed undisturbed natural areas. Ms. Pope's comments on the Site Plan were similar to the plat comments and a meeting was scheduled to discuss how to proceed.

On November 30, 2011, Steven Bertke, PE and Kelly Bell, PE with Bury+Partners, supported by Tonya Sonsteng, EIT and John Langan, PG of PSI, met with Sylvia Pope, Mike McDougal, Jim Williams, and Annette Bogusch of the City of Austin. It was agreed in this meeting that the best solution was to modify the Restrictive Covenant rather than amend or vacate the document; Bury+Partners would provide a draft modification document for city legal review. Furthermore, the amount of undisturbed area to reserve was discussed in relation to what would have been required for a recharge pond. Due to the ambiguity of the restrictive covenant document language and lack of criteria for the recharge pond design, Sylvia Pope presented a simplified solution of reserving three (3) acres of undisturbed natural areas as infiltration areas to mitigate for the recharge pond.

In late December an internal City of Austin meeting took place to discuss the infiltration areas with City of Austin engineers. In this meeting it was determined by senior engineering staff that roof top run-off should be captured and filtered through Vegetative Filter Strips (VFS) in addition to the direct infiltration areas. Bury + Partners received notice of this meeting on December 21, 2011 from Sylvia Pope at which time a follow up meeting was requested and scheduled for January 11, 2012 to discuss additional means of providing infiltration to meet the original intent of the Restrictive Covenant.

On January 11, 2012 Steven Bertke, P.E. and Kelly Bell, P.E. representing Bury+Partners, Mark Morris representing NAP Lakeline, LLC met with City of Austin Staff including:

- Sylvia Pope
- David Wahlgren
- Mike McDougal
- Lee Sherman
- Michael Duval
- Ed Peacock

During this meeting the City of Austin staff determined that the original intent of the Restrictive Covenant was to not only infiltrate water but to filter water prior to infiltration. It was agreed upon that a combination of direct infiltration and runoff from roof tops or other impervious areas routed through Vegetated Filter Strips would achieve the original intent of the Restrictive Covenant. City staff asked Bury+Partners to present a proposal to include roof run-off in addition to 1.5 acres of direct infiltration areas. The roof run-off areas were to be directed through undisturbed areas having the qualities of natural vegetated filter strips then directed to downstream areas where the run-off can infiltrate. The city requested a goal of 1.5 acres for run-off areas, resulting in a total of 3.0 acres of combined direct infiltration and roof run-off VFS areas.

Unlike the direct infiltration areas, which are to be designated as undisturbed, the City of Austin agreed to allow low impact development within the run-off areas. Low impact development includes pervious hiking trails, picnic areas, pervious playscape areas, and similar pervious recreational areas. Signs shall be posted at entry points informing pedestrians of the sensitive nature of the area and "pet clean up" stations will be provided. An Intergrated Pest Management Plan will also be provided.

Additionally, it was determined in this meeting that the Restrictive Covenant needed to go through the formal process of amending a restrictive covenant, as opposed to the modification process. On Jan 20, 2012 Bury+Partners, on behalf of NAP Lakeline, LLC, submitted a Restrictive Covenant Amendment (RCA) application (201-006153ZC).

On January 24, 2012, a follow-up meeting was held with Sylvia Pope, Mike McDougal, and Lee Sherman. Bury+Partners presented an exhibit identifying 1.8 acres of direct undisturbed infiltration areas and 3.1 acres of run-off areas with downstream infiltration for a total of 4.9 acres. City staff and Bury+Partners agreed that the exhibit met the intention of the original restrictive covenant and decided to move forward with the approval through the Restrictive Covenant Amendment process.

At the request of Sylvia Pope an Infiltration Report was performed by Professional Service Industries, Inc. (PSI) on November 18, 2011. *Reference Exhibit E for the full infiltration report.* PSI tested 11 different areas of the site for soil type and saturated infiltration rates. The tests revealed a range in values between 0.90 inches per hour and 1.94 inches per hour. Due to the high variation in soil infiltration values PSI recommends using a geometric mean value of 1.5 inches per hour and is represented in the preceding calculations and conclusions.

The existing site consists of ±46.7 acres of undeveloped, heavily vegetated land with no evidence of ever being cleared or used for pasture. The only significant disturbance to the land is a man-made drainage channel that essentially splits the site into two parcels. The site impervious cover limit is 65 percent, and the proposed impervious cover is 45 percent. A total of 25 acres of land is planned to be left either undisturbed or restored to an environment more conducive to protecting the condition of the many heritage and protected trees on site. The restoration includes removing invasive undergrowth, small cedar trees and planting native grasses. *Reference the Restrictive Covenant Exhibit in exhibit F.* Formal landscaping is to be kept to a minimum resulting in a more natural look to the overall project.

Bury+Partners has researched recharge pond design, construction, and maintenance in compiling this report. As stated previously, there is limited data available on specific design criteria per the City of Austin ECM and TCEQ guidelines. There is sufficient third party data available on maintenance and performance of recharge ponds to draw some conclusions. The following studies were used in completing this report:

- Artificial Aquifer Recharge in the Colorado Portion of the Ogallala Aquifer. Published by the Colorado Water Resources Research Institute. 1984
- Probabilistic Analysis of Maintenance and Operation of Artificial Recharge Ponds. Published by the Journal of Advances in Water Resources. 2011.
- Performance Evaluation of Percolation Ponds for Artificial Recharge-A Case Study. Published by the National Institute of Hydrology, Jalvigyan Bhawan. 1998-1999.

A recharge pond is defined as a pit or basin that captures and infiltrates water into an aquifer which otherwise would not have been available for infiltration. Recharge ponds are used worldwide with mixed results. Most recharge ponds are built for the primary purpose of flood control on a large scale. These ponds divert rivers and creeks into holding areas where the run-off slowly percolates into a groundwater feature.

The greatest disadvantage of recharge ponds is the difficulty in defining a successful maintenance plan and executing that plan. Recharge Ponds suffer from "aging" which is an appreciable reduction in the infiltration capacity. "Aging" is the result of several factors. Silt accumulation and algae growth on the sides and bottom of the pond clogs the soil pores. Maintaining the accumulation of silt and algae requires regular maintenance including mechanical scarification of the soil and treatment with chemical disinfectants to control the algae. Both operations significantly increase the possibility of contamination of the groundwater and would require specific monitoring. Additionally, with the decrease in infiltration, the water in the pond may become stagnant producing the ideal environment for mosquito propagation. Reductions in soil porosity can occur within a few days after a single significant rainfall. Prefiltering the water before entering the recharge pond can extend the maintenance period, though specific data for prefiltering is unavailable.

Undisturbed natural infiltration areas are defined as naturally vegetated areas used for the purpose of ground water recharge. The proposed amendment document states that the natural areas may not be used for any purpose of construction, recreation, pedestrian access, or any other activity that may alter the existing, natural undisturbed state. Access is to be strictly limited to those authorized to inspect the areas and for emergency access only. The proposed perimeter mitigation areas will be fenced from the public with locked entry points ensuring the areas remain completely undisturbed and in their natural state.

Bury+Partners has completed calculations to determine the infiltration of storm water over 1.5 acres of undisturbed natural areas. *Reference Exhibit G for a full explanation of Engineering Calculations.* The City of Austin Soil Conservation Service (SCS) Type III, 24 hr. storm was utilized in all calculations, which is consistent with most Water Quality practices of the City of Austin. The results show that a 1.5 acre undisturbed area absorbs over 75 percent of the 2-year storm and will

perform equal to or better than a 1.5 acre shallow recharge pond; substantially better when clogging and aging are considered. There is no need for pretreatment or maintenance since the natural vegetation acts as a filter in the same manner as Raingardens or Bioinfiltration Ponds, with the added benefit of aquifer recharge. A total of 1.8 acres of undisturbed natural infiltration areas are proposed with the amendment.

In addition to the 1.8 acres of undisturbed natural infiltration areas, Vegetated Filter Strips (VFS) with Downstream Infiltration areas are proposed to be used to capture rooftop runoff from several buildings throughout the site as well as small parking lot areas. For each area of impervious cover an equivalent area has been identified as natural vegetative filter strip. These areas adhere as best as possible to the City of Austin Environmental Criteria Manual (ECM). In meetings with City staff, it was preferred to leave the areas as undisturbed as possible as opposed to significant grading activities and disturbances to fully adhere to the ECM. Therefore some areas may not have flow completely perpendicular to the VFS and the full width of the VFS may not be equal to the width of contributing area. The VFS areas do meet ECM requirements for slope, size, length, and soil depth. Custom gravel paths will act as level spreaders and velocity reduction, and will be placed as to minimize disturbance. The Vegetated Filter Strips and Downstream Infiltration areas are heavily vegetated with trees and natural underbrush, therefore the Non-Required Vegetation as described in ECM 1.6.7G in these areas should fully mitigate any minor deviations from the VFS standards.

Additionally, the filter strips include more natural areas downstream to allow for infiltration. The total area indicated for vegetative filter strips and downstream infiltration equals 3.1 acres. These areas will have the same infiltration characteristics as the undisturbed direct infiltration areas, though low impact pervious development is allowed in these areas. The proposed improvements include hiking trails, playscapes, picnic areas, and other pervious amenities. Landscaping is to be kept to the absolute minimum with the natural landscape as the prevalent design theme. An Integrated Pest Management Plan/Landscape Maintenance Plan is included as an exhibit within the restrictive covenant amendment to specifically detail the care and maintenance of these areas. Signs will be posted at entry points informing residents and pedestrians of the sensitive nature of these areas and encouraging conservation awareness.

In conclusion, per our evaluation, we believe that Undisturbed Direct Infiltration Areas, Vegetated Filter Strips with Downstream Infiltration areas have several advantages over recharge ponds. Undisturbed areas have a greater long term infiltration rate ensuring natural aquifer recharge for many years to come. There is no chemical or mechanical maintenance required or associated contamination that may occur during maintenance procedures and the natural vegetation and filter strips work as a filtration system as water percolates into the aquifer.

We appreciate your evaluation and subsequent approval of this request for an amendment to the Restrictive Covenant. Please contact our office with any questions or comments.

Respectfully,

Steven Bertke, P.E.
Project Engineer
(512) 328-0011 tel
(512) 328-0325 fax
sbertke@burypartners.com

Attachment 13

C2/15

VOL 1852 PAGE 822

RESTRICTIVE COVENANTS
C14 R-85-178

THE STATE OF TEXAS $
COUNTY OF WILLIAMSON $ 36292

WHEREAS, Lakeline Joint Venture, a Texas joint venture ("Owner") is the owner of approximately 45.04 acres of land in Williamson County, Texas, more fully described on Exhibit "A" attached hereto and incorporated herein by reference ("Property"); and

WHEREAS, the City of Austin, Texas ("City") and Owner have agreed that the Property should be impressed with certain covenants and restrictions running with the land and desire to set forth such agreement in writing;

NOW, THEREFORE, Owner for and in consideration of One And No/100 Dollars ($1.00) and other good and valuable consideration in hand to the undersigned paid by the City, the receipt of which is hereby acknowledged, does hereby agree with respect to the Property such agreement to be deemed and considered as a covenant running with the land, and which shall be binding on it, its successors and assigns as follows, to-wit:

1. The owner of the Property shall cause to be constructed and maintained a recharge or detention area ("Recharge Pond") which shall be located on the exposed portion of the Edwards Aquifer. The surface area of the Recharge Pond shall consist of a minimum of one and one-half (1.5) acres. The depth of the Recharge Pond at its outlet controls shall be designed to reasonably prevent a health nuisance or safety hazard. The Recharge Pond shall additionally be designed so that the surface inflow into the Recharge Pond shall be limited to stormwater runoff from greenbelt areas, filtered stormwater runoff from water quality ponds, and water from on-site wells. The final design of the Recharge Pond shall be reviewed and approved by the Director of the Planning Department of the City. Such approval shall not be unreasonably withheld.

Tract 15, does not apply to CDLC (Tract 24)

OFFICIAL RECORDS
WILLIAMSON COUNTY, TEXAS

C2/16

2. If any person, persons, corporation or entity of any other character shall violate or attempt to violate the foregoing agreement and covenant, it shall be lawful for the City, its successors and assigns, to prosecute proceedings at law, or in equity, against said person, or entity violating or attempting to violate such agreement or covenant and to prevent said person or entity from violating or attempting to violate such agreement or covenant.

3. If any part or provision of this agreement or covenant herein contained shall be declared invalid, by judgment or court order, the same shall in nowise affect any of the other provisions of this agreement, and such remaining portion of this agreement shall remain in full force and effect.

4. The failure at any time to enforce any agreement by the City, its successors and assigns, whether any violations hereof are known or not, shall not constitute a waiver or estoppel of the right to do so.

5. The obligations and covenants contained in this Agreement shall run with the Property, and shall be binding on all parties having any right, title, or interest in and to the Property or any part thereof, their heirs, successors, and assigns, and shall inure to the benefit of each owner thereof. Notwithstanding the preceding sentence, however, each owner of any portion of the Property shall be released of any and all obligations and covenants contained herein upon the conveyance of all its interest in and to the Property, or with respect to any portion of the Property, the conveyance of all its interest in and to said portion of the Property.

6. This agreement may be modified, amended or terminated with respect to any particular portion of the Property only by joint action of both (a) a majority of the members of the City Council of the City, or such other governing body as may succeed the City Council of the City, and (b) the then current owners of the portion of the Property with respect to which this agreement is being modified, amended or terminated. Specifically, but

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without limitation, any provision of this agreement may be amended or terminated insofar as the same relates to any portion of the Property without necessity of the consent or joinder of any owner of any other portion of the Property.

EXECUTED effective as of October 27, 1988.

LAKELINE JOINT VENTURE,
a Texas joint venture

By: Lakeline-V, Inc., a Texas corporation, Venturer

By: _____
Walter Vackar, President

~~APPROVED AND ACCEPTED BY THE CITY OF AUSTIN, TEXAS.~~

~~By:~~ _____
~~Title:~~ _____
~~Date:~~ _____

STATE OF TEXAS $
COUNTY OF TRAVIS $

This instrument was acknowledged before me on this 11 day of December, 1988 by Walter Vackar, President of Lakeline-V, Inc., a Texas corporation, Venturer of Lakeline Joint Venture, a Texas joint venture, on behalf of said corporation and joint venture.

O. D. ORTEGON
Notary Public, State of Texas
My Commission Expires
JULY 28, 1992

_____
Notary Public, State of Texas

Name Printed: _____

Commission Expires: _____

1289-24.2

After recording return to:
CITY OF AUSTIN
DEPT. OF LAW
P. O. BOX 1088
AUSTIN, TEXAS 78767
Attn: Mark Parker

Austin Data Inc. IT ADI10252 WM 8936292.003

C2/18

45.04 Acres
Subdivision Lot 15

DESCRIPTION

DESCRIPTION OF 45.04 ACRES OF LAND OUT OF THE RACHEL SAUL SURVEY, ABSTRACT 551, WILLIAMSON COUNTY, TEXAS, SAID 45.04 ACRES BEING A PORTION OF THAT CERTAIN TRACT OF LAND DESCRIBED AS 99.64 ACRES IN A DEED TO CUNNINGHAM/SHIFLET/VACKAR JOINT VENTURE, OF RECORD IN VOLUME 1038, PAGE 380, DEED RECORDS OF WILLIAMSON COUNTY, TEXAS, AND A PORTION OF THAT CERTAIN TRACT OF LAND DESCRIBED AS 99.91 ACRES IN A DEED TO CUNNINGHAM/SHIFLET/VACKAR JOINT VENTURE, OF RECORD IN VOLUME 1038, PAGE 370, AND A PORTION OF THAT CERTAIN TRACT OF LAND DESCRIBED AS 99.97 ACRES IN A DEED TO CUNNINGHAM/SHIFLET/VACKAR PARTNERSHIP, OF RECORD IN VOLUME 1038, PAGE 375, DEED RECORDS OF WILLIAMSON COUNTY, TEXAS, AND A PORTION OF THAT CERTAIN TRACT B, DESCRIBED AS 27.0 ACRES IN A DEED TO B & W VACKAR PARTNERSHIP, OF RECORD IN VOLUME 1166, PAGE 919, DEED RECORDS OF WILLIAMSON COUNTY, TEXAS; SAID 45.04 ACRES OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at the most northerly northeast corner of this tract, from which point a 1/2 inch iron rod found at the northeast corner of said 99.91 acre tract, same being the northwest corner of said 99.64 acre tract, same being in the south line of Riviera Springs North Section B, a subdivision of record in Cabinet B, Slides 290-292, Plat Records of Williamson County, Texas, bears N01°39'33"E 696.12 feet and from which 1/2 inch iron rod found, another 1/2 inch iron rod found at an angle point in the north line of said 99.64 acre tract, same being in the south line of said Riviera Springs North Section B, bears N68°53'53"E 442.09 feet;

THENCE, from said Point of Beginning, crossing 99.64 acre tract, said 99.91 acre tract, said 99.97 acre tract, and said Tract B, the following twenty five (25) courses:

1) with a curve to the right, having a radius of 20.00 feet, an arc distance of 31.09 feet, the chord of which arc bears S84°16'12"E 28.05 feet to the point of tangency;
2) S39°44'07"E 387.50 feet to the point of curvature of a curve having a radius of 760.04 feet;
3) with said curve to the left, an arc distance of 395.52 feet, the chord of which arc bears S54°38'37"E 391.08 feet to the point of tangency;
4) S69°33'07"E 343.02 feet to the point of curvature of a curve having a radius of 20.00 feet;
5) with said curve to the right, an arc distance of 33.10 feet, the chord of which arc bears S22°08'13"E 29.45 feet to the point of tangency;
6) S25°16'41"W 348.12 feet to the point of curvature of a curve having a radius of 20.00 feet;
7) with said curve to the right, an arc distance of 28.83 feet, the chord of which arc bears S66°35'09"W 26.40 feet to the point of reverse curvature of a curve having a radius of 535.00 feet;
8) with said curve to the left, an arc distance of 410.34 feet, the chord of which arc bears S19°36'49"W 403.66 feet to the point of tangency;
9) S72°00'00"W 145.00 feet to the point of curvature of a curve having a radius of 559.20 feet;

EXHIBIT A

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Subdivision Lot 15
Page Two

10) with said curve to the left, an arc distance of 364.35 feet, the chord of which arc bears S53°19'27"W 358.13 feet to the point of tangency;
11) S34°38'53"W 948.29 feet to the point of curvature of a curve having a radius of 627.84 feet;
12) with said curve to the left, an arc distance of 8.53 feet, the chord of which arc bears S34°15'32"W 8.53 feet to the point of reverse curvature of a curve having a radius of 20.00 feet;
13) with said curve to the right, an arc distance of 27.91 feet, the chord of which arc bears S73°30'32"W 25.70 feet to the point of tangency;
14) N66°11'07"W 79.73 feet to the point of curvature of a curve having a radius of 758.01 feet;
15) with said curve to the left, an arc distance of 235.03 feet, the chord of which arc bears N75°04'05"W 234.09 feet to the point of tangency;
16) N83°57'03"W 201.87 feet to the point of curvature of a curve having a radius of 20.00 feet;
17) with said curve to the right, an arc distance of 33.08 feet, the chord of which arc bears N36°33'54"W 29.44 feet to the point of compound curvature of a curve having a radius of 928.56 feet;
18) with said curve to the right, an arc distance of 188.69 feet, the chord of which arc bears N16°39'37"E 188.36 feet to the point of tangency;
19) N22°30'00"E 526.18 feet to the point of curvature of a curve having a radius of 648.11 feet;
20) with said curve to the left, an arc distance of 431.06 feet, the chord of which arc bears N03°32'26"E 422.98 feet to the point of tangency;
21) N15°05'07"W 323.33 feet to the point of curvature of a curve having a radius of 20.00 feet;
22) with said curve to the right, an arc distance of 30.73 feet, the chord of which arc bears N27°36'20"E 27.80 feet to the point of reverse curvature of a curve having a radius of 1888.37 feet;
23) with said curve to the left, an arc distance of 187.91 feet, the chord of which arc bears N69°06'44"E 187.83 feet to the point of tangency;
24) N66°13'42"E 332.33 feet to the point of curvature of a curve having a radius of 2135.08 feet;
25) with said curve to the left, an arc distance of 561.42 feet, the chord of which arc bears N58°43'42"E 559.80 feet to the POINT OF BEGINNING.

PREPARED FROM A PARTIAL GROUND SURVEY AND OFFICE CALCULATIONS BY:

McCRAY & McCRAY LAND SURVEYORS, INC.
3909 Hancock Drive
Austin, Texas 78731 452-8591

STATE OF TEXAS
DENNIS W. MEENACH
4333
REGISTERED PUBLIC SURVEYOR

Dennis W. Meenach 2-6-86
Dennis W. Meenach, Registered Public Surveyor No. 4333 Date

subloc15

EXHIBIT A

Austin Data Inc. IT ADI10252 WM 8936292.005

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36392

FILED FOR RECORD
WILLIAMSON COUNTY, TEXAS
1989 DEC 27 AM 10 26
COUNTY CLERK

STATE OF TEXAS COUNTY OF WILLIAMSON
I hereby certify that this instrument was FILED on the date and at the time stamped hereon by me; and was duly RECORDED, in the Volume and Page of the named RECORDS of Williamson County, Texas, as stamped hereon by me, on

DEC 28 1989

COUNTY CLERK
WILLIAMSON COUNTY, TEXAS

Austin Data Inc. IT ADI10252 WM 8936292.006

Attachment C

C 2/21

AMENDMENT

TO THE

RESTRICTIVE COVENANT

Dated: **APRIL _____, 2012**

This Amendment to the Restrictive Covenant (the "**Amendment**") is made and entered into by **NAP LAKELINE, LP** (the "**Owners**"), an Ohio limited partnership with notice address of 212 East Third Street, Suite 300, Cincinnati, Ohio 45202 and executed, acknowledged and approved by the Director of the Planning and Development Review Department, **CITY OF AUSTIN, TEXAS** (the "**City**"), with notice address of P.O. Box 1088, Austin, Travis County, Texas 78767-1088 for the purposes and considerations stated below:

WHEREAS, the Owners desire to amend the Restrictive Covenant regarding the "Recharge Pond" and recorded as Volume 1852 Page 822 of the Official Public Records of Williamson County, Texas (the "**Original Agreement**") to amend the original, grant and conveyance, to amend Section 1 of the Original Agreement; and

WHEREAS, Section 6 of the Original Agreement allows modification, amendment or termination;

NOW, THEREFORE, in consideration of the mutual benefits and promises contained herein and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged by all of the parties to this Amendment, City and Owners severally and collectively agree and by the execution hereof Owners shall be bound to the obligations and to the performance and accomplishment of the hereinafter described amendments, alterations, terminations and changes to the Original Agreement in the following respects only and all other terms and conditions remain as stated in the Original Agreement:

Section 1 City and Owners agree to amend Section 1 of the Original Agreement by eliminating and striking out Section 1 in its entirety and substituting in its place the following new Section 1:

"1.The owner of the property shall reserve no less than 1.5 acres of Undisturbed Direct Infiltration Areas, more particularly described in Exhibit A, attached hereto and incorporated by reference. The Undisturbed Direct Infiltration Areas are to remain in a natural state and are to be enclosed by fencing per the City of Austin Land Development Code or other approved method by the City. Furthermore, the

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Undisturbed Direct Infiltration Areas may not be used for any purpose of construction, pedestrian access or any other activity which may alter the existing natural, undisturbed state. Access shall be restricted to authorized individuals for inspection and emergencies only.

Owner agrees to reserve additional areas to be defined as Vegetated Filter Strips with Downstream Infiltration in an amount reasonable and practicable exhibiting honest diligence, which will receive run-off filtered through natural areas. Areas shall exhibit Vegetative Filter Strip qualities as per ECM 1.6.7B as the natural landscape will allow with minimal disturbance. Construction in the Vegetated Filter Strips with Downstream Infiltration areas shall be limited to picnic areas, pervious trail surfaces, pervious playscapes, and similar low impact pervious development."

Section 2 City and Owners agree to amend Section 6(a) of the Original Agreement by eliminating and striking out Section 6(a) in its entirety and substituting in its place the following new Section 6(a):

"approval of the City of Austin Director of Planning and Development and City of Austin Legal Department, and"

Section 3 City and Owners agree to amend the Original Agreement by adding a description of the Undisturbed Direct Infiltration Areas and Vegetated Filter Strip with Downstream Infiltration Areas as indicated in Exhibit "A".

Section 4 Owner Agrees to abide by the Landscape Maintenance Plan as indicated in Exhibit "B".

Section 5 This Amendment may be executed in multiple counterparts, each of which shall be considered an original, but all of which together shall constitute one agreement.

THIS WRITTEN AMENDMENT TO THE ORIGINAL AGREEMENT, THE ORIGINAL AGREEMENT AND ANY OTHER AGREEMENTS OR WRITTEN DOCUMENTS REFERRED TO BY SUCH AGREEMENTS REPRESENTS THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

02/23

EXECUTED AND DELIVERED effective as of the date first above written.

OWNERS:

BY: _____
NAME:
TITLE:

APPROVED BY: **CITY OF AUSTIN, TEXAS**

BY: _____
NAME: Greg Guernsey
TITLE: Director, Planning and Development Review Department

APPROVED AS TO FORM:

City of Austin
Law Department

_____
_____
Assistant City Attorney

C 2/24

LANDSCAPE MAINTENANCE PLAN FOR LAKELINE MULTI-FAMILY

INTRODUCTION

The following Landscape Maintenance is intended to provide specific information in regards to maintenance, installation, and inspection of those specific land areas reserved in conjunction with the Amendment to the Restrictive Covenant as recorded in Volume 1852, Page 822 of the Official Public Records of Williamson County, Texas.

Specifically there are two types of reserved areas:

- Natural Vegetative Filter/Infiltration Areas.
- Undisturbed Natural Infiltration Areas.

1.0 INITIAL INSTALLATION PROCEDURE (NATURAL VEGETATIVE FILTER/INFILTRATION AREAS)

1.1 Tree Removal and Clearing

A. Trees defined at risk, and trees designated to remain, shall be delineated prior to construction activities by a method acceptable to the owner's representative.

B. Protect trees, plant growth, and features designated to remain, as final landscaping.

C. Protect all hardwood species with a diameter greater than or equal to 2" measured at breast height.

D. Contractor to perform selective clearing of all Cedar measured less than 8" in diameter at breast height preserving existing vegetation, and preservation of plant undergrowth designated to remain.

E. Contractor to trim all tree canopies to a minimum height of 6' in areas designated as sidewalk or trail.

F. Holes remaining after removal of trees, stumps, etc., shall be backfilled with material approved by the Engineer and compacted as directed.

G. Should field conditions exist which would warrant damage of a tree at risk, or a tree designated to remain, the contractor shall cease activity in that area

and immediately contact the owner's representative for permission to proceed.

H. Excavation and grading activities shall be kept to a minimum and only allowed within sidewalk/trail areas and other low impact development areas.

1.2 Use of Chemicals

A. No storage of petroleum, other chemicals, waste materials, trash, etc., shall be allowed within designated areas.

B. No pesticides or chemicals of any kind shall be used to remove plant material within designated areas.

1.3 Hardscape Material Installation

A. All pathways within designated areas to be compacted crushed granite on a weed barrier or mulch pathway with natural stone delineation. No impervious materials shall be installed.

1.4 Planting Material Installation

A. Bed Preparation. New planting areas to be completely cleared of existing plants and grass, including all perennial weeds.

B. Soil Preparation. Amend existing soils with 2-3" of organic compost, well-rotted manure, or Dillo Dirt to help improve drainage, hold moisture, and boost beneficial microbial activity.

C. Soil Specifications. Before installing plants, ensure depth of soil is a minimum of 4". Soil mix must come from a reputable company that has an approximate ratio of 25% compost, 65% loam, and 10% sand blend. Soil mix should not contain any subsoil, large rocks, weed seeds, plant parts, or anything else that would be harmful to plants. For information on composting visit: www.cityofaustin.org/sws/compost.htm

D. Plant Disease. All plant material to be checked for any signs of disease, insect or physical damage, especially under leaves where insects hide.

E. Shrub Planting. When planting shrubs, hole to be dug twice as wide as root ball and no deeper than it's height. Planting holes to be checked to ensure water drainage. For non-native plants, till 1-2" of compost into the soil.

F. Tree Planting. When planting trees, hole to be dug twice as wide as root ball and no deeper than it's height. Planting holes to be checked to ensure water drainage. Trees to be lifted by container or root ball only. Eliminate all vegetation under the canopy; create a tree well. Till 1" of compost to the soil under the canopy. Cover the soil with 4" of mulch; ensure mulch is 6" away from the trunk. New trees to be irrigated once per week minimum. Remove all wires on branches to avoid stifling growth.

G. Mulch. Use organic mulch (shredded hardwood, straw, bark chips, or newspaper in planting beds. Minimum 3" of mulch to be installed with plant material. Minimum 1" of mulch to be added to all planting beds annually. Mulch is to maintain a constant covering over all soil in planting beds.

2.0 INSPECTION PROCEDURES (NATURAL VEGETATIVE FILTER/INFILTRATION AREAS)

A. Owner or owner's representative to perform an inspection of the entire designated areas every six (6) months and perform necessary maintenance.

B. Selective Clearing. The trimming of invasive trees and shrubs, the removal from the ground and disposal of logs, root pods, brush, refuse dumps, and other undesirable debris, and the cutting, removal, and disposal of all undergrowth, stumps, dead wood, and standing trees within the Designated areas, as well as areas designated as Sidewalk or Trail.

C. Remove all Cedar measured less than 8" in diameter at breast height.

D. Preserved Vegetation. Areas of the designated areas containing trees and brush and designated on the plans as Preserved Vegetation areas shall not be disturbed except as described below.

E. Fertilizing. Natural or organic fertilizers to be used within Designated areas. Fertilizer to be applied when soil temperature is between 75 and 85 degrees. For new plantings or stressed plants, use a compost tea or seaweed solution. For chlorotic (yellowing) plants, use chelated iron or soil-acidifying supplements such as sulfur.

F. Pruning Schedule. Pruning of Large Trees to be performed in January and February. Spring Flowering Trees to be pruned in April / May / June. Avoid pruning immediately after new growth develops in spring. No pruning to be performed from August to October. **Initial tree pruning during construction activities is not required to follow this schedule.**

G. Pruning Equipment. Maintain sharp cutting edges to allow cuts to heal faster. When pruning diseased plants, disinfect all blades after each cut with alcohol, spray disinfectant, or a mixture of one part bleach to nine parts water to avoid spreading disease, rinse and oil tools after bleach treatment to inhibit rust.

H. Steps for Pruning.
   1.) Remove all dead, broken, or diseased limbs by cutting them back at the point of origin or back to a strong lateral branch.
   2.) Remove weak or narrow angled branches and eliminate undesirable trunks in multi-trunk plants.
   3.) Make any needed cuts, keeping in mind the plant's natural growth habit.
   4.) Check work; if excessive pruning is necessary, perform in stages over several months to a year to prevent excessive re-growth and allow plant time to recover.

I. Pruning large trees. Cut branches without removing the branch collar at the base of the branch. Avoid leaving stubs or making flush cuts. When cutting branches more than 1.5" in diameter, use a "three-part" cut.

J. Pruning Oak trees. Prune trees susceptible to oak wilt during the heat of the summer or the cold of winter when beetles that transmit disease are less active. Immediately after pruning, apply pruning or latex paint to the wounds on trees susceptible to oak wilt.

K. Tree Pruning Guidelines. Avoid excessive pruning which leads to vigorous, unnatural regrowth and poor branches. Thinning technique is to be used, no "topping" of trees within the Designated areas. No branches less than 1" in diameter to be removed from young trees.

L. Hand tools and small walk-behind equipment are to be used for all work within designated areas. No large excavation equipment or other large machinery shall be used within the designated areas.

M. No pesticides or chemicals of any kind shall be used to remove plant material within the designated areas.

3.0 REGULAR MAINTENANCE PROCEDURE (NATURAL VEGETATIVE FILTER/INFILTRATION AREAS)

A. Landscape maintenance contractor to perform inspection as part of regular landscape maintenance

B. Contractor to perform selective clearing only within 5' of areas designated as Sidewalk or Trail.

C. Tree canopy to be trimmed regularly to maintain an existing minimum height of 6' in all areas designated as sidewalk or trail.

D. Contractor to remove weeds, undergrowth, briar, hedge, rubbish, dead wood, logs, and other deleterious material within 5' of areas designated as Sidewalk or Trail.

E. Tree Care. Maintain 1" of compost under tree canopies at all times. Weed eaters not to be used around tree trunks.

F. No pesticides or chemicals of any kind shall be used to remove plant material within the designated areas.

4.0 INSTALLATION PROCEDURES (UNDISTURBED NATURAL INFILTRATION AREAS)

A. Areas shall be inspected and all inorganic debris identified and hand removed.

B. Fencing shall be installed as per the Site Plan/Landscape Plan and shall meander as necessary to avoid trees and tree roots.

C. Gates shall be installed as shown on the Site Plan.

5.0 INSPECTION AND MAINTENANCE PROCEDURES (UNDISTURBED NATURAL INFILTRATION AREAS)

A. Owner or owner's representative to perform an inspection of the entire designated areas every six (6) months identify any potential maintenance needs.

B. Maintenance will only include removal of any inorganic material and removal of diseased or dead vegetation that may cause damage to public

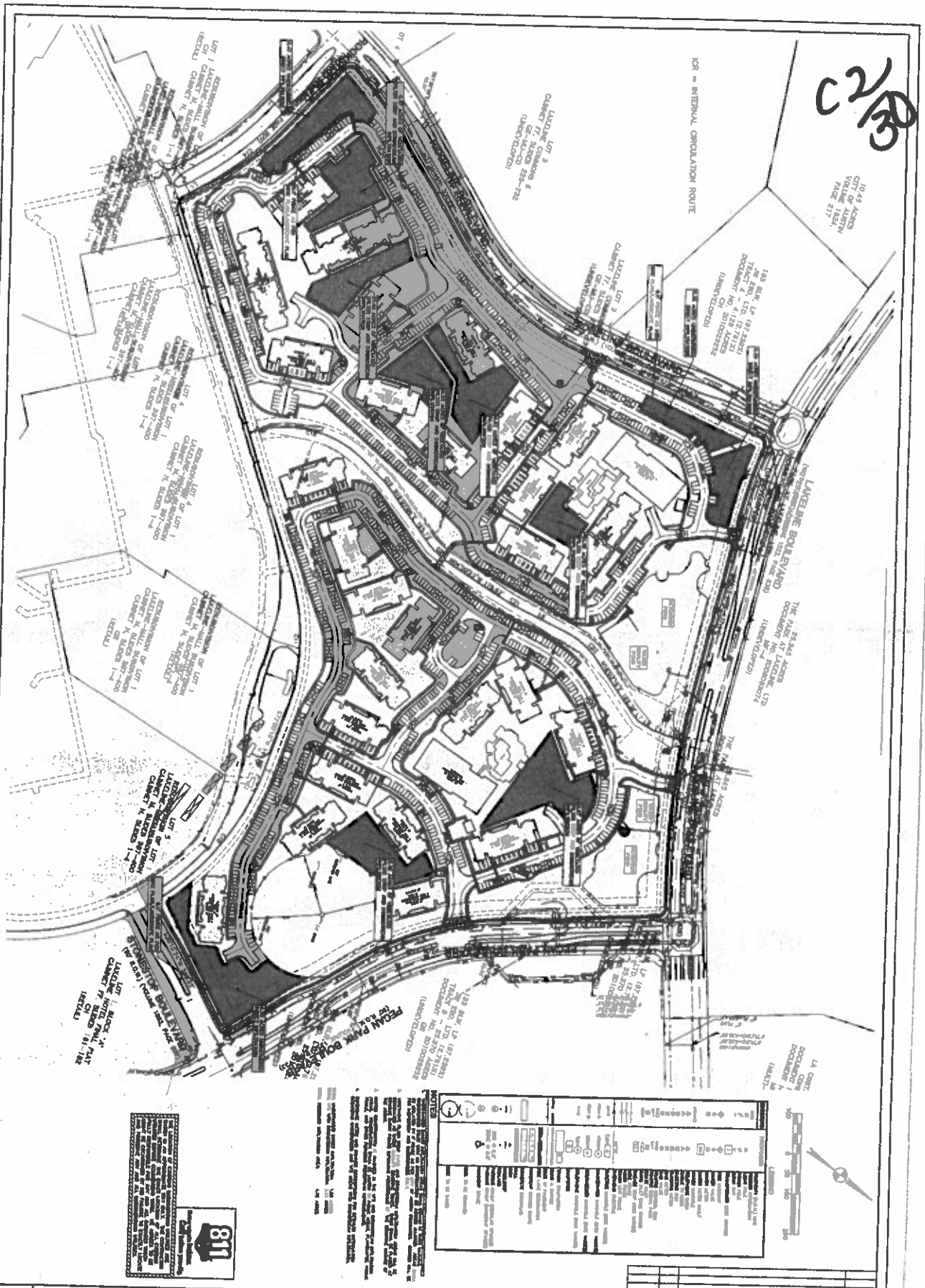
or private property.

C. Any maintenance deemed absolutely necessary will adhere to the procedures above in Section 3.0.

As the person preparing the IPM Plan / Landscape Maintenance Plan, I am aware that this document is part of a Restrictive Covenant. The restrictive covenant is the legal document requiring the use of this plan on this site.

***You may be contacted for more information. Maintain this for your records.**

C2/30



DRAWN BY: KJB	LAKELINE BOULEVARD MULTI FAMILY 2601 AND 2629 S. LAKELINE BOULEVARD	RESTRICTIVE COVENANT EXHIBIT	Bury+Partners
DESIGNED BY: KJB			
REVIEWED BY: KJB	NAP LAKELINE, LP		
PROJECT NO.: 108340-10003			

SHEET EX1 OF

DATE	NO.	REVISION	APPROVAL

Attachment D

C2/31

MEMORANDUM

TO: Betty Baker, Chairperson
Members of the Zoning and Platting Commission

FROM: Sylvia R. Pope, Hydrogeologist Reviewer
Watershed Protection Department

DATE: April 4, 2012

SUBJECT: Lakeline Boulevard Multi Family - C14R-85-178(RCA)

Request: Recommendation for approval of an amendment to a restrictive covenant to the Zoning and Platting Commission and to City Council

Related Cases:
C8J-2011-0118.0A and SP-2011-0255C. These cases are on hold until the amendment to the restrictive covenant is approved by City Council.

Description of Project Area
This 46.7-acre tract is located at 2801 S. Lakeline Blvd., immediately north of Lakeline Mall. The tract is within the Northern Edwards Aquifer Recharge Zone and within the Buttercup Creek watershed. The proposed project is to construct 30 multi family units at a density of 45 percent impervious cover.

There is an existing, manmade drainage channel that conveys runoff from Lakeline Mall to Buttercup Creek. This channel is approximately trapezoidal in shape and is partially vegetated and partially rock outcrop.

Vegetation
Site vegetation is typical of Edwards Plateau uplands with a mixture of grasses, forbs and trees. Rough rocky areas areas support a mid-grass understory dominated by little bluestem (*Schizachyrium scoparium*), Texas wintergrass (*Stipa leucotricha*), agarita (*Berberis trifoliolata*), Texas prickly pear catcus (*Opuntia* sp.), twist-leaf yucca (*Yucca rupicola*), and various other native grass and forb species. The overstory is dominated by plateau live oak (*Quercus fusiformis*), Texas red oak (*Quercus buckleyi*), Ashe juniper (*Juniperus ashei*), cedar elm (*Ulmus crassifolia*), and yaupon (*Ilex vomitoria*).

Critical Environmental Features
Two Critical Environmental Features (CEFs), a cave and a sinkhole, are located in the southeastern corner of the site. They are described as follows:

Cave – Opening is a 5-feet in diameter by 9 feet deep. A bedding plane is solutionally-enlarged at the base of the shaft and extends approximately 10 feet to the north with a height of 2 feet or less and a width of 7 feet. This feature was excavated at some point in the past, probably during review of the Lakeline Mall development. A small sinkhole is located approximately 20 feet away from the shaft opening. The CEF buffer is approximately 150 feet in radius, with a portion being slightly shorter due to proximity to Pecan Parkway and a portion being slightly larger to mitigate for a reduced buffer of the sinkhole.

Sinkhole – This is a karst depression with internal drainage that is approximately 4 feet wide by 3 feet wide by 1 foot deep. Currently, it has a vegetated floor. The CEF buffer is irregular, with a portion 50 feet in radius and a portion 25 feet in radius. An area equal to the size reduced from 50 feet to 25 feet was added to the cave buffer on the upslope side.

Photos of both CEFs are in the attached slides from the presentation.

Reasons for Requesting the Amendment

Staff was unable to find supporting documentation as to why there was a requirement to construct a 1.5-acre recharge pond on this 46.7 acre tract. It may have been to compensate for the impervious cover of the overall mall development.

A recharge pond is undesirable due to the potential for polluting groundwater. As explained in the Engineer's report accompanying this amendment to the restrictive covenant, recharge ponds are also prone to maintenance problems and are likely to experience reduced efficiency over time. The applicant conducted a study of the infiltration of site soils (Exhibit E of the Engineer's report) and determined that the Geometric Mean value of vertical saturated hydraulic conductivity of 1.5 inches per hour may be expected on the site. Their report provides an explanation of the proposed alternative Vegetated Filter Strips and Direct Infiltration areas (an aggregate of 4.5 acres) and the volume of recharge anticipated from these areas. This alternative method of compliance has the following benefits:

* Less disturbance of native ground. It's possible that the existing ground and vegetation may be suitable for use as a Vegetated Filter Strip.
* Capture, treatment and infiltration of roof runoff allows greater site recharge than what would occur if roof runoff is directed to standard water quality controls.
* A Landscape Maintenance plan will provide ongoing vegetation control to ensure that the Vegetated Filter Strips are operating in compliance with the Environmental Criteria Manual.

Recommendations

Staff requests that the Environmental Board make a recommendation for approval of an amendment to Restrictive Covenant C14R-85-178, Vol. 1852 Page 822, Williamson County. The amendments are to allow the following:

1. To allow an alternative method of compliance with the original restrictive covenant requirement to construct and maintain a recharge or detention area ("Recharge Pond") with a surface area a minimum of 1.5 acres.

2. To allow inclusion of a description of "Undisturbed Direct Infiltration Areas and Vegetated Filter Strip with Downstream Infiltration Areas."
3. To allow inclusion of a "Landscape Maintenance Plan."

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If you have any questions or need additional information, please feel free to contact me at 974-3429.

Sylvia R. Pope, Hydrogeologist Reviewer
Watershed Protection Department

Development Services Manager: _____

Environmental Officer: _____

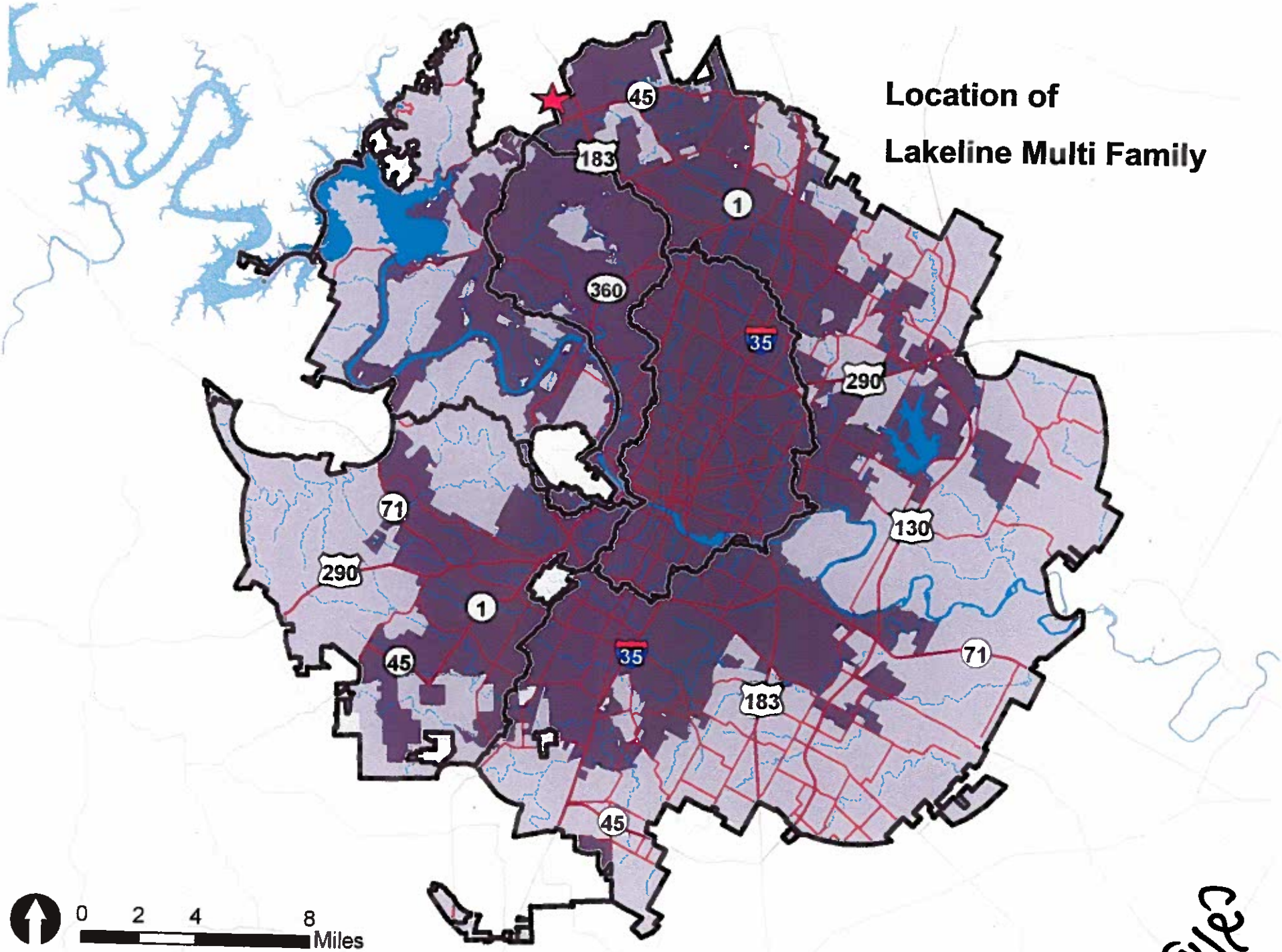
Lakeline Blvd. Multi Family
C14R-85-178(RCA)

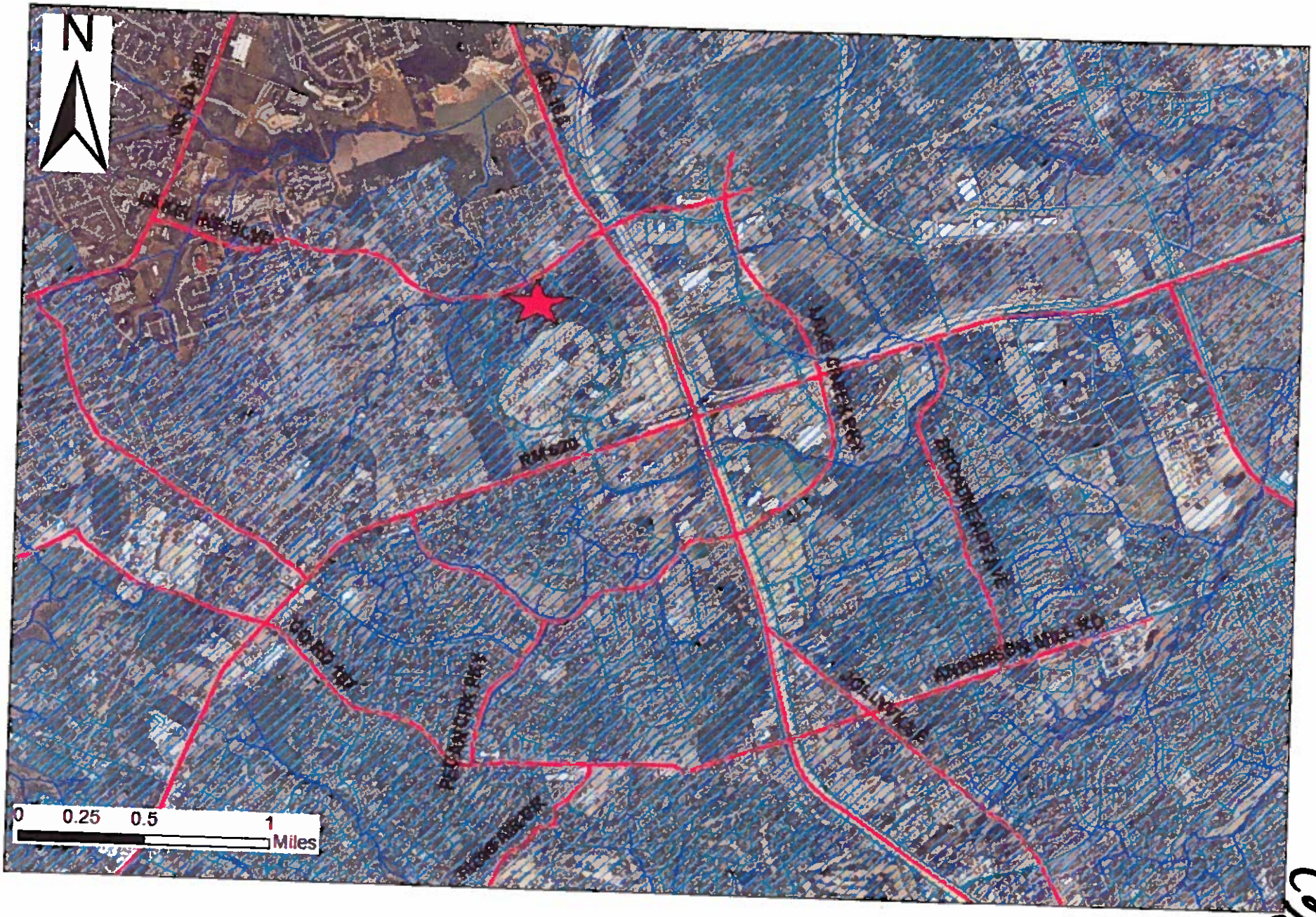
2801 and 2829 S. Lakeline Blvd.

Lake Creek watershed

Sylvia R. Pope, P.G.
Hydrogeologist Reviewer
Watershed Protection Department

C2/3X


Location of
Lakeline Multi Family
45
183
1
360
35
290
71
130
290
1
45
35
71
183
45
0 2 4 8
Miles

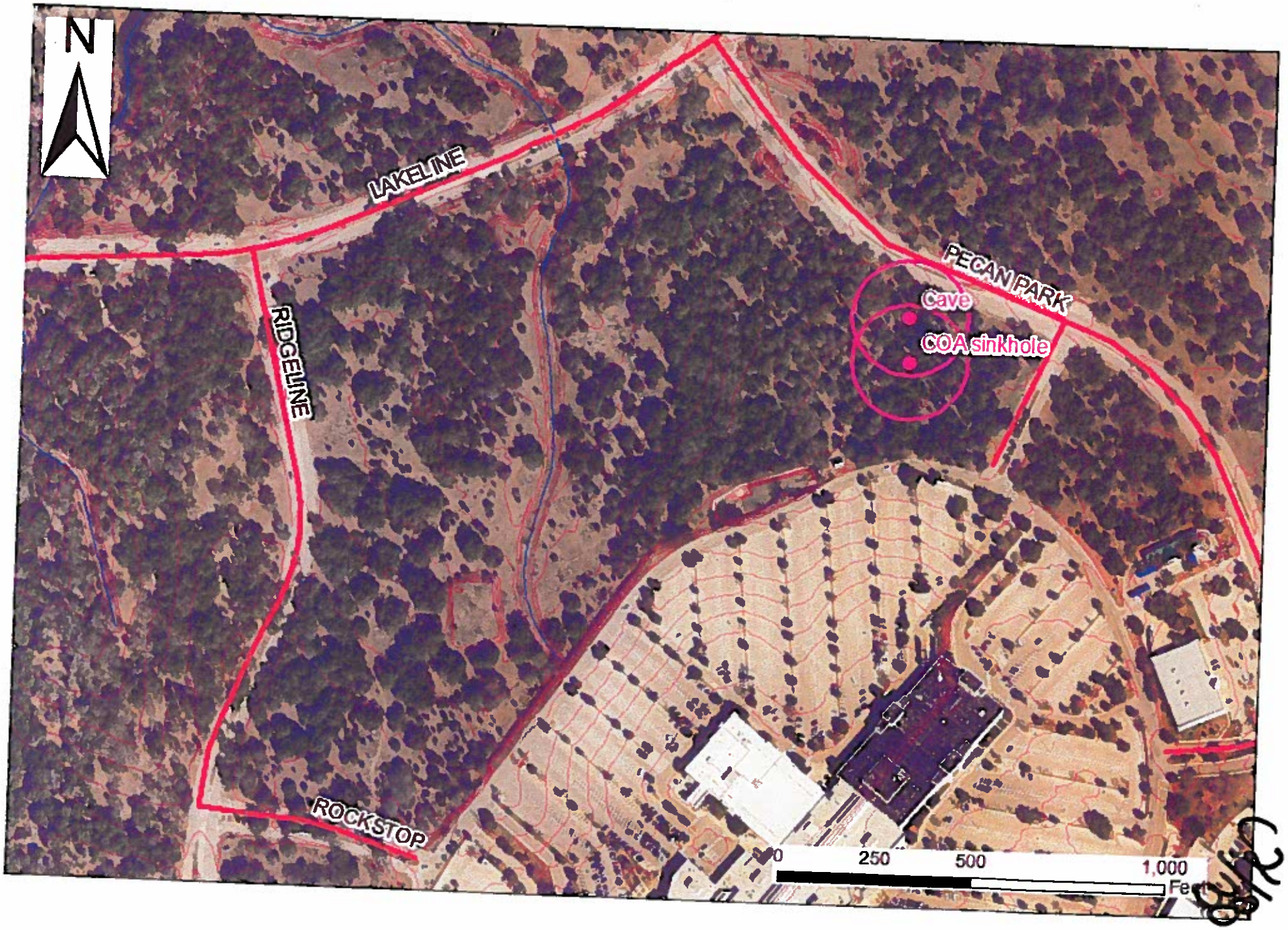


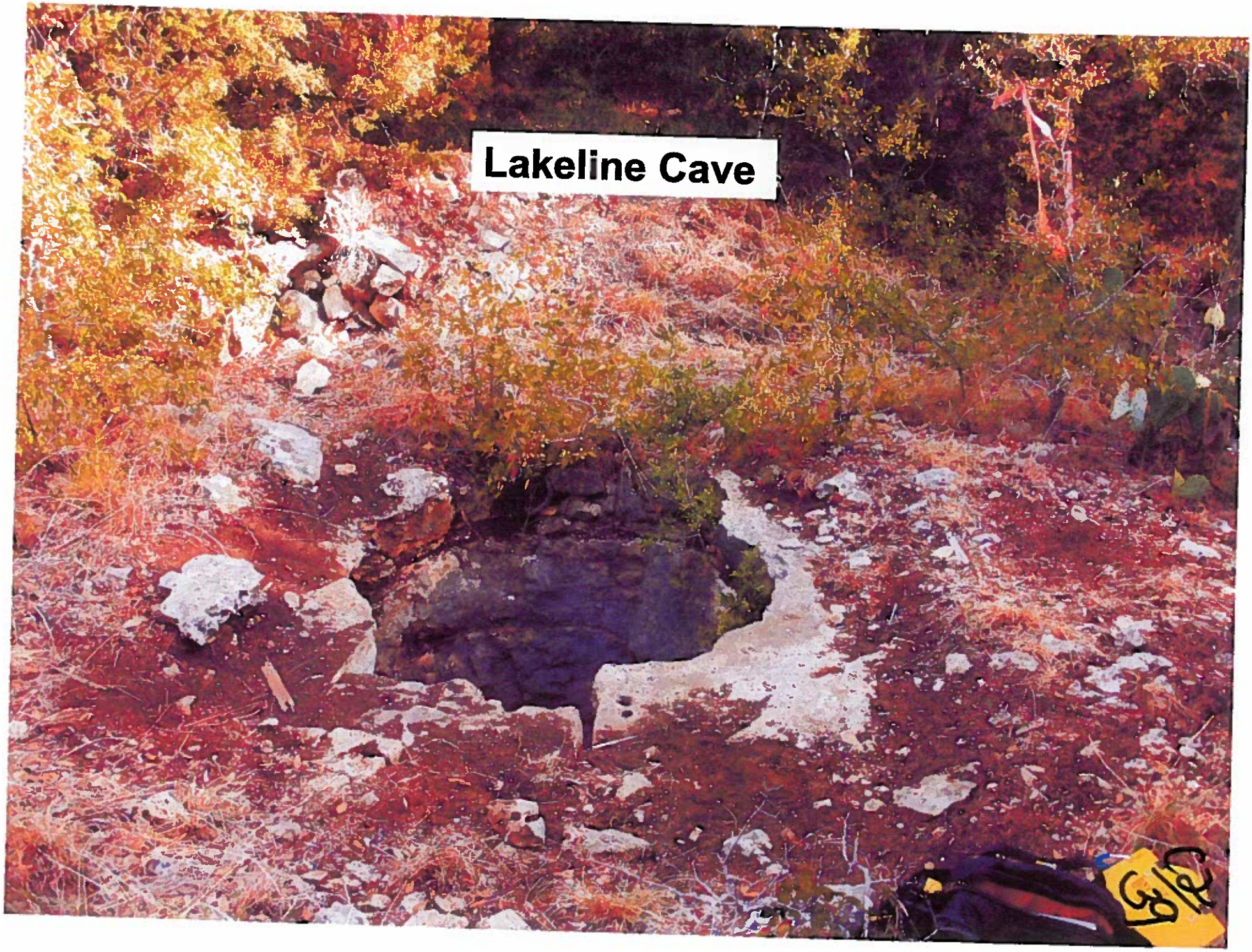
C2/30

Site description

- Located over the Northern Edwards Aquifer Recharge Zone
- Slopes range from 2 to 10%, except for improved drainage channel that bisects the site
- Eckrant series soils, ranging from 0 to 2' thick
- Vegetation is typical Edwards Plateau savannah/ashe juniper mix
- Two Critical Environmental Features: a cave and a sinkhole

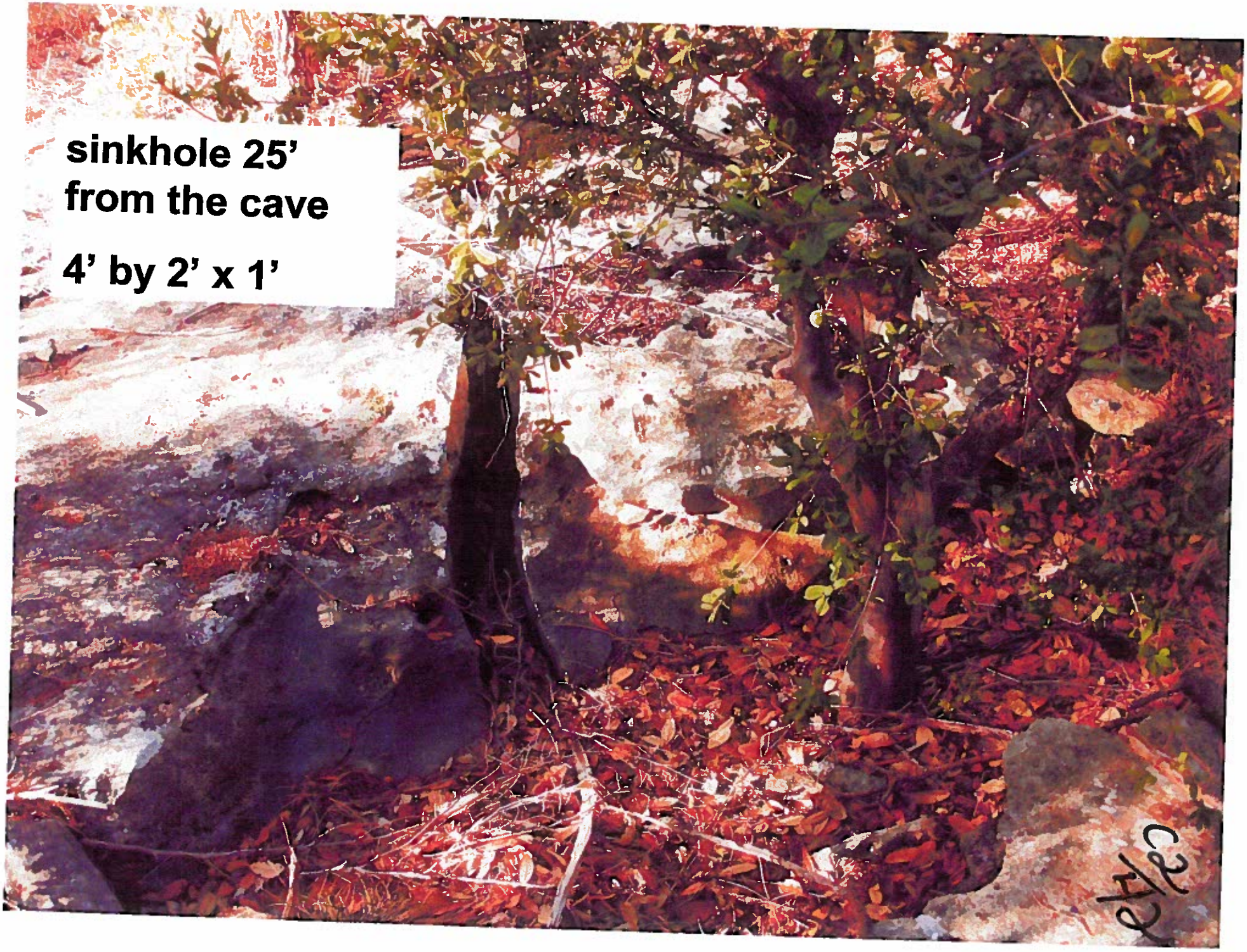
C2/X 3

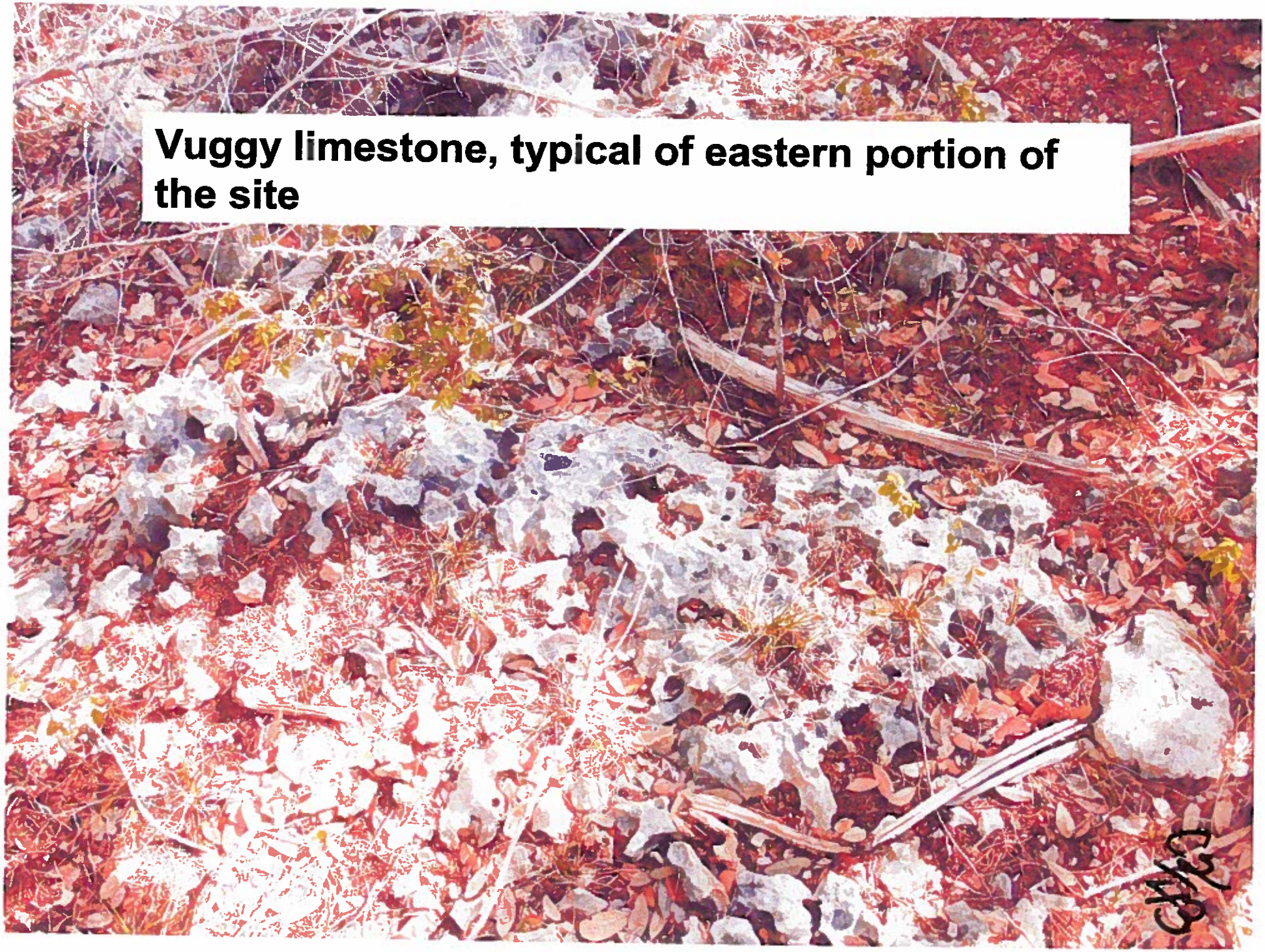

N
LAKELINE
RIDGELINE
ROCKSTOP
PECAN PARK
Cave
COA sinkhole
250
500
1,000


Lakeline Cave

Cave shaft
is 5'
diameter by
9' deep

COA sinkhole
4' by 3' x 1'
C2/H


sinkhole 25'
from the cave
4' by 2' x 1'
C242


Vuggy limestone, typical of eastern portion of the site

C2/A4

EXH

LAKELINE BOULEVARD MULTI FAMILY
2801 AND 2829 S. LAKELINE BOULEVARD

NAP LAKELINE, LP

CRITICAL ENVIRONMENTAL SETBACK

Burg+Partners

AREA REQUIRED FOR CEF's

AREA REMOVED FOR VARIANCE

ADDITIONAL AREA ADDED FOR MITIGATION

PECAN PARK BOULEVARD

174.92'

155.00'

155.00'

50.00'

50.0' DIAMETER CIRC.

DCM MANHOLE

Request
recommendation to approve an amendment to Restrictive Covenant

(C14R-85-178) Vol. 1852 page 822, Williamson County.

- Allow an alternative method of compliance with the original restrictive covenant requirement to construct and maintain a recharge or detention area ("**Recharge Pond**") with a surface area a minimum of 1.5 acres.
- Allow inclusion of a description of "**Undisturbed Direct Infiltration Areas and Vegetated Filter Strip with Downstream Infiltration Areas**."
- Allow inclusion of a "**Landscape Maintenance Plan**."

Vegetated Filter Strips and Infiltration Areas will allow **recharge** over **4.5** acres

EX1	LAKELINE BOULEVARD MULTI FAMILY 2801 AND 2829 S. LAKELINE BOULEVARD NAP LAKELINE, LP	RESTRICTIVE COVENANT EXHIBIT WITH AERIAL

Bury+Partners

EXHIBIT

Advantages of Vegetated Filter Strips and Infiltration Areas

- Allows for pollutant attenuation via plant adsorption and photodegradation
- Estimated that volume of recharge is nearly the same as that of a 1.5-acre open water body
- Less potential for impact to groundwater from accidental spill or release of pollutants
- Easier to maintain functionality

C2/48

Staff's position on amendment to the restrictive covenant

- Staff supports the proposed change because it provides approximately the same volume of recharge intended in the 1985 document and is a **preferable environmental alternative**
- A **recharge pond is unsuitable** for this setting due to the shallow depth to groundwater and the potential to pollute groundwater